

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DONALD LEE CURTIS,**

**Plaintiff,**

**9:15-cv-718  
(GLS/TWD)**

**v.**

**R. BOLA et al.,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR PLAINTIFF:**

Barclay, Damon LLP  
555 East Genesee Street  
Syracuse, New York 13202

KEVIN G. ROE, ESQ.

**FOR DEFENDANT:**

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the  
State of New York  
The Capitol  
Albany, New York 12224

DENISE P. BUCKLEY  
Assistant Attorney General

**Gary L. Sharpe  
Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following a Order  
and Report and Recommendation by Magistrate Judge Thérèse Wiley

Dancks, duly filed on November 28, 2017. (Dkt. No. 58.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Order and Report and Recommendation for clear error, it is hereby

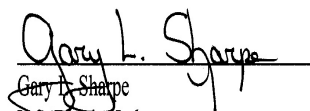
**ORDERED** that the Report-Recommendation and Order (Dkt. No. 58) is **ADOPTED** in its entirety; and it is further

**ORDERED** that the exhaustion remedies under the DOCCS IGP were rendered unavailable to Plaintiff with regard to Grievances CL-65115-14 and CL-65307-14, and that his claims in this action are not barred by the PLRA based upon his failure to exhaust, and that the matter be set down for trial on Plaintiff's remaining claims; and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

January 3, 2018  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge